



## Memorandum

**To:** Honorable Mayor and  
City Council

**From:** Councilmembers Pete Constant  
and Sam Liccardo

**Subject:** Nonprofit Gaming in San José

**Date:** April 13, 2007

**Approved:** 

### Recommendation:

Direct the City Attorney to draft an ordinance amending Title 16 of the San José Municipal Code in order to allow nonprofit organizations to use controlled games for fundraisers at locations in the City other than Permitted Cardrooms consistent with the provisions of The Gambling Control Act that authorize nonprofit organizations to use controlled games for fundraisers.

### Background:

In California legal gaming is subject to the concurrent jurisdiction of the State and local governments. The State regulates legal gambling through The Gambling Control Act and provisions of the California Penal Code pertaining to gaming. The City of San José regulates legal gaming in the City through The Gaming Control Regulatory Program, Title 16 of the San José Municipal Code.

In 2006, the State legislature passed AB 839 (Torrico), which amends the California Gambling Control Act (Act) to authorize nonprofit organizations to hold fundraisers using controlled games as a funding mechanism to further the purposes and mission of the nonprofit organization. The law took effect on January 1, 2007. Until passage of AB 839 State law prohibited the use of controlled games outside of Cardrooms that were licensed by both the State and local jurisdiction. The amended Act requires eligible nonprofit organizations that wish to hold fundraisers using controlled games to register annually with the Division of Gambling Control, California Department of Justice. The amended Act allows registered nonprofit organizations to have these fundraisers at locations other than Cardrooms. Although the City of San José has for many years allowed the use of controlled games for nonprofit fundraising at permitted Cardrooms, Title 16 does not currently allow controlled games to be played outside of the City's two permitted Cardrooms. A number of nonprofit organizations have requested that we amend the Municipal Code to reflect this change in State law in order allow fundraisers with gaming themes, such as casino nights to be held at locations outside of the Cardrooms.